UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1993/SR.14
22 December 1993

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eighth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 25 May 1993, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

Consideration of reports (continued)

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant (continued)

Lebanon

Organization of work (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.93-16729 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS (agenda item 5) (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Lebanon (list of issues: E/C.12/1993/WP.2)

1. At the invitation of the Chairperson, the members of the delegation of Lebanon took seats at the Committee table.

2. Mr. MAAMARI (Lebanon) read out his country's initial report, which had for the moment been distributed without a symbol. Submission of the report had been delayed for security-related reasons; for 16 years, conditions had prevented Lebanese officials from carrying out more than strictly basic duties. During the period of disturbance in Lebanon, no Government had been able to consider the systematic improvement of economic, social and cultural rights as a priority issue.

3. At present, although the southern part of the country was still occupied by the Israeli army, peace and security had returned to Lebanon. The present Government, in place since 31 October 1992, had in collaboration with the Chamber of Deputies created a number of new ministries some of them specifically designed to meet the economic, social and cultural needs of the Lebanese population: they included the Ministry for Displaced Persons, the Ministry for Municipal and Village Affairs, the Ministry for Technical and Vocational Education, the Ministry for Social Affairs, the Ministry of Culture and Higher Education, and the Ministry for the Environment. Mention should also be made of the establishment of two inter-ministerial commissions, one to deal with displaced persons and the other with action to combat drug addiction, production and trafficking. Lastly, a Committee had been set up to examine ways and means of enhancing the rights of the child.

4. The Chamber of Deputies and the Government were at present vigorously engaged in the process of national reconstruction and the improvement of the economic, social and cultural conditions of the Lebanese people. Thus, for example, a new law on rents for housing and commercial premises had been voted.

5. Proceedings were under way to make up delays and to fill gaps in the ratification by Lebanon of the various multilateral treaties whose provisions implied improvement of the social and cultural conditions of the Lebanese people. At the bilateral level, negotiations were being conducted with UNESCO with a view to reaching agreement on the establishment of an international centre for human sciences in the ancient city of Byblos. Treaties providing for exchanges and mutual assistance in the cultural and scientific fields had been concluded with various countries, as had treaties on financial cooperation and the protection of investments. Mention should also be made of the close cooperation which existed between Lebanon and institutions in the United Nations system such as UNDP and UNICEF, and specialized agencies such as WHO.

6. The "Document of National Understanding", on which the Taëf Agreements were based, provided for social justice and equal rights and responsibilities for all Lebanese citizens, without distinction or preference, and for the coordinated and equitable cultural, social and economic development of the different regions of the country. The Document also established the principle of universal compulsory primary education, freedom of choice in education, the need to develop free vocational and technical education geared to the requirements of national reconstruction, the development of programmes to strengthen national cohesion and the mutual tolerance of different religious beliefs and cultures. All those principles were embodied in the new preamble to the Constitution, in the Government's programme or in individual laws and programmes.

7. Concerning the right to self-determination, he reminded members of the Committee that Lebanon had become an independent State in 1943, but it was still negotiating with Israel to secure implementation of Security Council resolution 425 (1978) by Israel and its withdrawal from the territories it was occupying in southern Lebanon. The Taëf Agreements regulated the presence of Syrian troops on Lebanese soil and provided for their gradual withdrawal.

8. Lastly, concerning housing conditions, he said that following a recent conference of Arab Ministers of Housing and Reconstruction in Lebanon, statistics on the housing situation in his country had been published and showed, inter alia, that 15.5 per cent of houses and apartments had no kitchens, 31.1 per cent had no bathroom, 17.1 per cent had a shared water supply and 6.6 per cent were without electricity. It was estimated that Lebanon would require 25,715 additional housing units annually between 1992 and 2005.

9. The CHAIRPERSON thanked the Lebanese representative for introducing the report, the preparation of which could not have been easy, given the country's present circumstances.

10. Mr. WIMER ZAMBRANO inquired whether Lebanon had responded in writing to the list of issues prepared by the pre-sessional Working Group, or whether answers to the questions were incorporated in the report. If the Lebanese delegation had already replied to the questions asked, the Committee would merely have to seek any supplementary information that might be necessary without reopening substantive issues.

11. Mr. SIMMA observed that the report of Lebanon adhered closely to the list of issues drawn up by the pre-sessional Working Group (E/C.12/1993/WP2); Lebanon was in fact one of the first States to keep so closely to a list of issues of that type.

12. He would nevertheless welcome clarification concerning a number of specific points in the report. Firstly, why was there such a difference between the observed literacy rates of adult men and women? Secondly, concerning the remedies available to individuals claiming violations of their rights, he asked whether such remedies were as effective in the domain of economic, social and cultural rights as in that of civil and political rights. In many countries, economic, social and cultural rights were not considered as genuine rights under the law, but rather as political objectives. What was

the position of the Lebanese Government in that regard? And were there any concrete examples of cases relating to the violation of economic, social and cultural rights being brought before the Lebanese courts?

13. The report stated that the estimated average monthly wage was US$ 132, while the General Confederation of Workers had calculated that the monthly needs of a five-member family amounted to US$ 800. What steps had been envisaged by the Government to remedy that state of affairs? How, in practical terms, did families manage to make up the difference between their actual income and their needs?

14. Mr. GRISSA inquired what proportion of workers in the private sector were receiving the minimum wage. Noting from the report that State employees were legally forbidden to form unions, he asked whether the law applied to all State employees, including teachers, postal workers and so on. He considered the average monthly wage to be particularly low in comparison with per capita GNP, and asked whether that meant that income distribution was very unequal in Lebanon.

15. Mrs. BONOAN-DANDAN said that it was most unusual, not to say aberrant, for a country emerging from a civil war, with a large proportion of its population uprooted from their homes, not to experience hunger or malnutrition. She asked the Lebanese delegation for details on that point. She had been informed that the living conditions of Palestinians in Lebanon were very precarious, especially where employment was concerned. It would seem that neither a Palestinian male who married a Lebanese woman nor the children of that marriage would be entitled to Lebanese nationality, whereas a Palestinian woman marrying a Lebanese man would have that right. Was that information correct?

16. Mr. RATTRAY noted that the first part of the report of Lebanon spoke of officially recognized religious communities, and asked whether there were any religious communities that were not officially recognized. If so, did membership of a religious community that was not officially recognized or non-membership of an officially recognized religious community have any consequences with regard to enjoyment of rights to housing, education, health care and so on. Noting that unemployment seemed to be far greater among men (38 per cent) than women (9 per cent), a trend contrary to that prevailing in most other countries, he asked the Lebanese delegation for an explanation. To what extent did families' material circumstances depend on their women members having a job?

17. He asked what remedies were available in the case of violations of rights, and inquired why an individual who claimed to be a victim of such violation must seek remedy through the President of the Republic or the recognized religious communities, as seemed to be the case according to paragraph 4 (c) of the report.

18. He was surprised to learn from paragraph 11 that the law did not permit employees of the State to form trade unions; he asked whether any mechanism existed whereby they could voice their concern.

19. Lastly, he noted that if primary education appeared to be free of charge, that did not seem to be the case for other levels. He sought clarification on that point and inquired whether education was free of charge for Lebanese citizens only, or for non-Lebanese as well.

20. Mr. MUTERAHEJURU noted with satisfaction that, notwithstanding many years of difficulties, Lebanon had managed to secure respect for certain rights. Nevertheless, one aspect of the country's plight worried him, namely, the situation of displaced persons who, according to the report, accounted for 20 per cent of the Lebanese population. There being no further mention of the subject in the report, he would welcome details of their exact circumstances, in particular with regard to the right to social security, including health care. He was especially concerned to know how children were faring, because one of the features of displacement was the dislocation of families. He inquired as to the significance of the family and of marriage in a country where communities with widely differing perceptions coexisted, and asked what was being done to reunite the families of displaced persons. Did the children of displaced persons enjoy the same rights as others with regard to education? Statistics would be welcome in that connection.

21. He further inquired whether the number of seats occupied by the various religious communities in Parliament, which was proportional to their numerical importance, influenced, for example, access to education or cultural activities. Did every Lebanese citizen necessarily belong to a religious faith, and where the minorities that were allotted only one seat in Parliament in fact non-religious minorities? He would welcome clarification of the place accorded to freedom of opinion and of religion and to cultural activities in the context described in the seventh subparagraph of paragraph 1 of the report.

22. Mr. ALVAREZ VITA congratulated the Lebanese delegation on the special efforts made, despite the country's painful circumstances, to provide the Committee with what he found to be a perfectly acceptable report. On the question of the officially recognized religious communities, already referred to by Mr. Rattray and Mr. Muterahejuru, he asked what were the consequences of State recognition of various communities, and what was the status of the other communities which no doubt existed in Lebanese territory.

23. The importance of official recognition was obvious as far as protection of the family was concerned. In paragraph 13 of the report, relating to the implementation of article 10 of the Covenant, it was stated that assistance and protection were currently accorded to the family by the religious communities, which were subsidized by the State. He asked whether certain faiths did not enjoy preferential treatment and inquired about the situation of the Jewish and Baha'i communities which he understood to exist in Lebanon.

24. Paragraph 25 of the report mentioned the adult literacy rate. He asked whether the figures referred to literacy in Arabic or also in French and English, both of which were taught in schools.

25. Mr. TEXIER said that he too wished to draw attention to the special effort made by Lebanon to submit its report on its situation and to send representatives, rather than have its case considered in its absence. A dialogue had begun; he welcomed that very positive development and was convinced that it marked merely a beginning.

26. His first question concerned the Taëf Agreements and the Document of National Understanding which, according to the report, contained wide-ranging provisions, notably in the economic and social fields. Unfortunately, the report said nothing further about the economic and social aspects of that document, aspects which were of particular interest to the Committee.

27. Concerning the implementation of article 10 of the Covenant, he asked what kind of marriage was recognized, a question which he believed pertinent not only because various religious communities coexisted in Lebanon, but also because Parliament was made up of their representatives. Did both civil and religious marriages exist, and was one more important than the other in the eyes of the law?

28. As to the implementation of article 11 of the Covenant, he asked about the housing of displaced persons. According to the report, there were no homeless people in Lebanon, but he was surprised that displacement had not created problems in that respect. Surely there were camps; he did not consider them to amount to proper housing.

29. The report was short on information concerning the implementation of articles 13 and 14 of the Covenant. He inquired about the difficulties which the country must be encountering, given its dramatic circumstances, in ensuring free and universal primary education, and about the proportion of the country's children of primary-school age who were in fact enrolled.

30. Mrs. JIMENEZ BUTRAGUEÑO expressed considerable surprise at the unemployment rate indicated in paragraph 5 of the report. The figures of 38 per cent for men and 9 per cent for women appeared completely abnormal; she wondered whether the distortion might not be due to the fact that women were engaged in very lowly tasks where there was little unemployment. That supposition led her to inquire whether girls enjoyed the same status as boys in education and to ask about the actual status of women in political and working life.

31. Noting, with regard to the implementation of article 8 of the Covenant, that the report said nothing about the right to strike, she asked whether strike action was authorized.

32. Nor was there any mention in the report of the existence or otherwise of old-age pensions. She asked whether that was an omission or whether the right to a pension did not exist in practice.

33. Paragraph 25 of the report mentioned private evening classes for workers. Were they paid for by the workers themselves, or were they given by non-profit-making associations. She further inquired about the places occupied by public and private education, particularly at the higher level. Did the private sector provide fee-paying education of higher quality, and did scholarships exist?

34. Lastly, she noted that only 5.1 per cent of the population was over the age of 65; given the likelihood that the figure would rise in coming years and give rise to certain problems, she asked whether the Government had made any provision for assistance to needy persons in that age group.

35. Mr. WIMER ZAMBRANO asked whether pre-war legislation was still in force, or whether it was being adapted to present-day realities. If the latter was the case, he would like to know more about any such updating.

36. The CHAIRPERSON noted that the members of the Committee had no more questions. In accordance with the wishes of the Lebanese delegation, he announced that replies would be given on the following day.

37. The members of the delegation of Lebanon withdrew.

ORGANIZATION OF WORK (agenda item 2) (continued)

38. The CHAIRPERSON informed the members of the Committee that the Permanent Representative of Suriname at United Nations Headquarters in New York had just sent a letter stating that for technical reasons his Government was not in a position to provide a timely response to the Committee's questions, and that it would not be appointing a delegation. It nevertheless intended to submit its initial report as soon as possible, and if feasible in time for the Committee's next session. Expressing regret at that state of affairs, he (the Chairperson) considered that the Committee should do everything in its power to encourage States to submit their reports. He proposed that the Committee should send a letter to the Government of Suriname, requesting it to submit its report in time for the Committee's next session at the latest, and reiterating that in the absence of a report the Committee would in any event consider the situation in Suriname on the basis of the information available to it. The dispatch of similar letters after the previous session had not been ineffectual since, of the four States to which they had been addressed, two had submitted reports and a third had announced that it would do so shortly.

39. Mr. SIMMA agreed that the Committee should send the Government of Suriname a letter along the lines suggested by the Chairperson, together with an offer of technical assistance within the framework of the advisory services of the Centre for Human Rights. That being said, the contents of the letter from the representative of Suriname in New York were not altogether clear.

40. Mr. GRISSA also drew attention to the ambiguity of the letter from the representative of Suriname, according to which the report would be submitted "as soon as possible" possibly at the following session.

41. The CHAIRPERSON agreed that the letter lent itself to different interpretations. The Committee must in any case decide on the procedure it wished to adopt with regard to States which did not send delegations even though consideration of their reports was scheduled in the Committee's programme of work. He understood that Mr. Grissa favoured a decision to the effect that once a State had agreed to the scheduling of its report, there could be no turning back. Perhaps States should be given a time-limit, of six months say, after which they could not withdraw, unless that did not leave the Committee with sufficient time to send a list of issues to other States.

The Committee should take a firm stand and say that, except in case of force majeure, which might be defined (for example, foreign invasion, earthquake or similar grave circumstances), and whether or not a State was represented, it would consider reports as scheduled. It seemed clear that if the Committee permitted States to postpone consideration of their reports without meaningful justification, they would not hesitate to invoke diplomatic or technical reasons.

42. If the Committee took its responsibilities seriously, States would have to take the report submission procedure seriously as well. They must realize that, in the eyes of the Committee, it was of the utmost priority that their reports be considered once a date for submission had been set and agreed upon. They could not renege simply because it suited them to do so. There was also the problem of States which requested that consideration of their reports be postponed on the grounds that the political situation had changed or was about to change. The situation with regard to economic, social and cultural rights could evolve rapidly, and the Committee must be able to draw on recent and up-to-date information. It was difficult to do a good job if those who were representing a State before the Committee announced that its report was out of date. Moreover, when a State requested postponement of consideration of its report, the list of issues drawn up by the pre-sessional Working Group lost its relevance and had to be brought up to date. Any postponement disrupted the Committee's timetable, detracted from the topicality and relevance of the issues, was a disservice to interested journalists and non-governmental organizations turning up in vain on the scheduled date, reduced the possible impact of consideration of the report in the country concerned and obviously undermined the credibility of the Committee. And last-minute requests by States for postponements made it necessary to adjust the schedule for consideration of reports at subsequent sessions. For all those reasons, he proposed that States should be informed that, except in cases of force majeure, reports would be considered as scheduled.

43. Mr. GRISSA agreed that States which had submitted their reports and approved the scheduling should ensure that they were represented before the Committee at the appointed time. It seemed that it was not the States with the greatest logistic or financial problems that failed to appear. The members of the Committee had no time to waste, and its sessions cost the United Nations a lot of money; it was thus to be hoped that the Committee would consider the reports of States on the scheduled dates and draft its final observations on the basis of those reports and other information at its disposal. It was inadmissible that countries should simply suit their convenience.

44. Mr. WIMER ZAMBRANO said he fully agreed that a concise, clear letter setting out the rules should be addressed to States, but did not deem it necessary to define what was meant by "force majeure".

45. Mr. MARCHAN ROMERO felt there was a danger that if the Committee decided to consider the reports of States in the absence of delegations, that might set a precedent which could suit States parties. If, therefore, the Committee were to decide on such a procedure, it must find ways and means of bringing pressure to bear on States parties, and adopt a different attitude according to whether or not a report was considered in the presence of a delegation. If

States were not represented, the Committee should point out clearly in its concluding observations that they were failing to meeting their obligations under the Covenant.

46. Mr. SIMMA associated himself with Mr. Grissa in emphasizing that the members of the Committee, who exercised professional activities in their own countries, had no time to waste; coming to sessions of the Committee only to find that proper work could not be done because States parties failed to attend was also prejudicial to their professional reputations. That being said, and in response to the remarks by Mr. Marchan Romero, he observed that there was no obligation under the Covenant for States parties to be represented before the Committee when their reports were considered; they were simply invited to be present during consideration of their reports. Circumspection was thus called for, and obligations should only be mentioned when so provided for in the Covenant, for example, the obligation to submit written reports. The drafting of the concluding observations concerning Kenya would offer the opportunity of declaring that a State which did not submit a report was acting in violation of the Covenant. The fact that a delegation was not present only amounted to a breach of procedure.

47. Given that the Committee must be more demanding and stricter with regard to States, it must for its part demonstrate greater seriousness in its own work. It should reflect, in particular, on what could be done to improve its preparations for the consideration of reports. There was certainly a need to review the distribution of responsibilities and tasks within the pre-sessional Working Group, to exercise care in selecting the member or members of the Committee who would be responsible for a particular country in the light of their individual capacities, and perhaps to adopt a system of rapporteurs. A rapporteur would be responsible for carrying out the necessary documentary research before the consideration of a report, and - in the absence of representatives of the Government of the country concerned - for providing the Committee with an account of the situation in that country. Having been entrusted with studying and presenting the situation in Kenya, he was well aware that the task was not an easy one, but he considered that the Committee must be more demanding of itself, so that the quality of its work might be enhanced.

48. Mr. KOUZNETSOV said that the Committee must maintain a dialogue with the States parties, and that it was consequently desirable for States submitting reports to be present at the meetings when the Committee considered them. Certain States might nevertheless find themselves in very difficult situations that prevented them from sending representatives. The Committee was, in his view, empowered to take a firmer line with regard to States which systematically violated their obligations under the Covenant. At all events, States parties should be reminded that they were expected to attend the presentation of their reports, especially since they were given due notice of the dates on which those reports would be considered.

49. Mr. TEXIER found it inadmissible that a State party which had undertaken to introduce a report should back down at the last moment and disrupt the functioning of the Committee. He endorsed the idea of sending a letter which would, for example in the case of the three countries which should have submitted reports but had not done so, state that those reports would in any case be considered at the next session. It might be as well to indicate also

that the Committee would be justified, in consequence, in seeking information elsewhere. If a State did not send a representative to back its report, the Committee was fully entitled to supplement the information that it contained from other reliable governmental, intergovernmental and non-governmental sources, even if that meant extra work for the rapporteur, as Mr. Simma had pointed out. Moreover, the mere fact of sending a letter indicating that the report would nonetheless be considered was likely to dispel "technical difficulties" of the kind invoked by Suriname. He noted in that connection that, despite its own very real difficulties, Lebanon had found ways and means of sending representatives to introduce its report.

50. The CHAIRPERSON said that the main sanction incurred by State parties undoubtedly lay in the contents of the concluding observations that would be drafted in connection with their reports. States parties would certainly not appreciate forceful concluding observations being drawn up without having the opportunity of defending themselves or seeking a more favourable assessment. Faced with those two sanctions, States would no longer be able, as Mr. Marchan Romero feared, to submit a report without being present to defend it as an easy way out.

51. Mr. GRISSA said that, not being a jurist, he was uncertain as to the Committee's exact terms of reference. He fully understood that certain countries could experience difficulties in preparing their reports, but he saw no reason why those countries should not be able to send representatives to reply to additional questions. Up to now, the most useful information had been that obtained from external sources, for example from the Special Representative of the Commission on Human Rights, Mr. Galindo Pohl, in the case of Iran, and from non-governmental organizations in the case of Canada. He shared Mr. Simma's view that the members of the Committee should look more closely at the situation prevailing in the country whose report was to be considered. Lastly, he wished to know what importance the Committee should attach to the consideration of oral replies as compared with its consideration of the written report.

52. The CHAIRPERSON acknowledged that the situation was complex. Under the provisions of the Covenant, States were merely obliged to report to the Economic and Social Council through the Committee on Economic, Social and Cultural Rights, which was under the Council's authority. However, when the first human rights instrument had been adopted, the committee responsible for monitoring its implementation had begun to invite States parties to introduce their reports. States had accepted that practice, and since then the six committees responsible for monitoring the implementation of the various instruments had followed the same practice, without any State raising objections. The procedure was provided for in the rules of procedure of all the committees, but the participation of the States parties was in fact only an established practice. The Committee was required to consider the actual situation in a country on the basis of the report submitted and not on the basis of participation by the State party in the consideration of that report.

53. Mrs. JIMENEZ BUTRAGUEÑO concurred with the previous speakers; she particularly endorsed Mr. Simma's point about the attitude to be adopted by the Committee in seeking information when a State party did not send a representative to introduce its report.

54. Mr. WIMER ZAMBRANO considered that even if a State party was under no legal obligation to be represented during the consideration of its report, the practice was politically advantageous in so far as it permitted representatives of the State to defend its position and image.

55. Mr. RATTRAY said that non-reporting by States parties and their non-attendance when reports were considered posed a very important problem for the Committee, because such behaviour disrupted its work and prevented meaningful assessment of actual compliance by States with their obligations under the Covenant. A distinction should however be drawn between States parties which had not submitted reports despite reminders, and those which were not represented in person. The Covenant established no legal obligation on the latter point, while the Committee's own rules of procedure merely indicated that the representatives of States submitting a report were entitled to attend meetings of the Committee when those reports were considered. He nevertheless acknowledged that the absence of States parties during the consideration of their reports considerably complicated the Committee's task, since it was then obliged to undertake more detailed research in order to determine the actual situation in the countries under review.

56. However, the members of the Committee should not allow themselves to be discouraged by the high rate of absenteeism among States parties. They should adopt a realistic attitude and formulate a rule that was sufficiently flexible for States to know sufficiently far in advance when their report was to be introduced. It might be advisable to sent them a reminder three or four months in advance, indicating that the report would be considered even if they sent no representative. As to States which had not submitted a report, they should be reminded that they were in breach of their obligations under the Covenant and that the Committee in any case intended to consider their situation and to report thereon to the Economic and Social Council.

57. The CHAIRPERSON said that it was for the Committee to establish a long-term schedule for the consideration of reports; that would also enable it to submit more detailed proposals to the Economic and Social Council. He invited comments on the following text: "Once a State party has agreed to the scheduling of its report for consideration by the Committee, the Committee will proceed with the examination of that report as scheduled, unless exceptional circumstances intervene."

58. Mr. KOUZNETSOV said he found that wording satisfactory, but sought clarification concerning the meaning of the words "Once a State party has agreed". Would it be necessary to await a signal of agreement from States, or would silence be taken to signify agreement?

59. The CHAIRPERSON replied that the State party's agreement could be tacit: the State party receiving a letter from the Committee inviting it to send a representative for the consideration of its report was required to send the representative on the scheduled date. It would nevertheless be advisable for the secretariat to send a further reminder to the State concerned.

The meeting rose at 1.05 p.m.